



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

COPY MAILED

NOV 07 2008

In re Application of :
Shota Murakami, et. al. :
Application No. 10/574,977 : DECISION ON PETITION
Filed: April 7, 2006 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 23697-015US1/NF-2981 :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed August 15, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

It is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Sushil Shrinivasan appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

- (1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not satisfy item (1) above.

It is noted that the specification filed on August 15, 2008, lists a claim for benefit to Application No. 10/683,629. However, Application No. 10/683,629¹ fails to contain a common inventorship with the present application. Therefore, petitioner must submit a substitute amendment with the correct Application No. 10/683,269.

Additionally, the specification fails to include a claim for priority to PCT/JP04/14732. If petitioner desires to have this application included in the claim for priority, it should be included in the substitute amendment in compliance with the aforementioned rules, along with a renewed petition under 37 CFR 1.78(a)(3).

If reconsideration of this decision is desired, a renewed petition under 37 CFR § 1.78(a)(3) and an Application Data Sheet or an amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

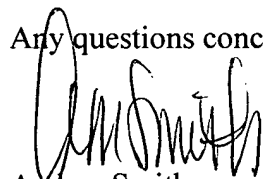
Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
 Commissioner for Patents
 Post Office Box 1450
 Alexandria, VA 22313-1450

By hand: Customer Service Window
 Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

By fax: (571) 273-8300
 ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3226.



Andrea Smith
Petitions Examiner
Office of Petitions

¹ .Petitioner should note that Application No. 10/683,269 does share common inventorship with the present application.